

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Debra Franchi

v.

Civil No. 08-cv-00395-JL

New Hampton School

SUMMARY ORDER

The plaintiff's motion for leave to amend the amended complaint (document no. 26) is granted. The scheduling order, to which the defendant agreed, sets March 1, 2010, as the deadline for the plaintiff's amendment of pleadings. In light of the agreed-upon schedule, the fact that the case has been pending for 15 months is immaterial. So the motion, which was filed on January 8, 2010--almost 2 months before the deadline and some 11 months before the scheduled December 2010 trial--is timely by any standard.

Further, adding an alternative theory that if the plaintiff wasn't in fact disabled, then the school "regarded" her as such does not fundamentally alter how the school would conduct discovery or defend its case. Any evidence tending to show how the school "regarded" the plaintiff would seem to be in the school's possession, not the plaintiff's.

As to the alleged "inconsistency" in the plaintiff's positions that her eating disorder was disabling yet not serious enough to justify her expulsion, the court's order on the

school's motion to dismiss cited First Circuit authority pointing out that such a so-called "inconsistency" is present in most disability cases.

Nonetheless, this ruling is without prejudice to a well-founded request to extend deadlines, although a continuance does not appear necessary at this point.

Within 48 hours counsel shall electronically refile the pleading attached to the Motion to Amend using the appropriate event in CMECF.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: January 27, 2010

cc: Donna-Marie Cote, Esq.
Peter E. Hutchins, Esq.
Andrew W. Serell, Esq.